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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,909	02/09/2004	Jalil R. Tlemcani	2937.10US01	1191
24113 7590 03/08/2007 PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A. 4800 IDS CENTER 80 SOUTH 8TH STREET MINNEAPOLIS, MN 55402-2100			EXAMINER COULTER, ANDREA	
			ART UNIT	PAPER NUMBER
			3634	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/775,909	Applicant(s) TLEMCANI ET AL.	
	Examiner Andrea L. Coulter	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-30 and 32 in the reply filed on 1/23/07 is acknowledged.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 5/7/04 was considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 11, 12, 14, 15, and 25-29 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 and 26 contain the trademark/trade name "Interam E-5A material", and claims 12 and 28 contain the trademark/trade name "3M duct wrap material". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is

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used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe the material used and, accordingly, the identification/description is indefinite.

Claims 11, 14, 15, 25, 27 and 29 recite "or a combination thereof" or "combinations thereof". This phrasing is indefinite because it does not clearly limit the claim. For example, claim 14 recites "the frame comprises aluminum, an alloy of aluminum or a combination thereof." However, does this mean that the material of the frame can be a combination of aluminum and something entirely different? Also, an alloy of aluminum already comprises aluminum, so a combination of aluminum and an aluminum alloy would simply be an aluminum alloy. Revision and clarification is necessary.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 10, 13, 16, 18-22 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Garlington (US 3,531,577). Garlington discloses a door frame 14 and a door comprising a top member 20 with a top surface, a first layer of insulation material 22 that makes a bottom surface of the door, and a support structure. The top

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member and the first layer of insulation 22 both contact the door frame 14. The support structure comprises a support member (topmost brackets 6) attached to and extending away from the top member 20, and an angle structure (bottommost bracket 6) having a horizontal component attached to the first layer of insulation 22 and a vertical component connected to the support member. The support structure does not contact the frame.

In one definition, the layer of insulation comprises a plurality of layers (21 and 22) coupled together, with the layer of insulation 21 closest to the top member 20 connected to the support structure.

In another definition, there is a first 22 and a second 21 layer of insulation, with the second layer 21 oriented towards the top surface. A gap exists between the two layers.

The reference thus reads on the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9, 24-26 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garlington in view of Baltazar (US 5,750,927). All of the elements of the instant application are described above except that Garlington fails to disclose that

the insulation material is an endothermic blanket material, and fails to disclose the specific way that the multiple layers of insulation are coupled together. However, Baltazar teaches an endothermic blanket material as an insulation sheet 14 for fire protection and insulation. Baltazar also teaches coupling multiple insulation layers (12, 31 and 44) with fasteners 41. Using this setup, the fasteners would not contact the support structure of Garlington. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the fire door of Garlington with the multiple layers, fasteners and material of Baltazar, since multiple layers provide more insulation, since the fasteners hold the layers securely together without transmitting heat from the support structure, and since the endothermic blanket material is an effective insulator.

Claims 11, 12, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garlington in view of Dykhoff (US 7,018,699). All of the elements of the instant application are described above except that Garlington fails to disclose that the second layer of insulation is made of non-woven mineral fibers impregnated with fiberglass. However, Dykhoff teaches an insulating material that can comprise a mixture of fiberglass and mineral wool (see column 2, lines 40-42 of the specification). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the fire door of Garlington with the insulating material of Dykhoff, since the material is effective at restricting the advance of fire.

Claims 14, 15 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garlington in view of Naka (US 4,098,024). All of the elements of the instant application are described above except that Garlington fails to disclose that the frame

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and top member are made of aluminum. However, Naka teaches a frame 11 and door panel 139 that are formed of aluminum. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the fire door of Garlington with the aluminum frame and door panel of Naka, since aluminum is light and easy to manufacture.

Claims 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garlington in view of Lyons (US 5,301,469). All of the elements of the instant application are described above except that Garlington fails to disclose that a layer of concrete cement extends under the door frame. However, Lyons teaches a wall of cement in which a door and frame are placed. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the fire door of Garlington with the concrete surround of Lyons, since concrete is a common and structurally strong building material.

The references thus read on the claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea L. Coulter whose telephone number is (571) 272-1679. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571)272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andrea L. Coulter
Patent Examiner


Jerry Redman
Primary Examiner